

United States District Court

Northern District Of California

Before The Honorable Jeffrey S. White

United States of America, )

)

Plaintiff, )

)

vs. )

NO. CR 10-0245 JSW

)

Kenneth Martin Kyle, )

)

Defendant. )

)

San Francisco, California  
Thursday, September 2, 2010

**Reporter's Transcript of Proceedings**

**Appearances:**

For Plaintiff: Melinda L. Haag  
United States Attorney  
450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102

**By: Owen Martikan, Esquire**  
**Assistant United States Attorney**

For Defendant: David M. Bigeleisen Law Office  
101 Howard Street, Suite 31-  
San Francisco, California 94105

**By: David M. Bigeleisen, Esquire**

**Reported By: Sahar Bartlett, RPR, CSR 12963**  
**Official Reporter, U.S. District Court**  
**for the Northern District of California**

(Computerized Transcription by Eclipse)

**Sahar Bartlett, C.S.R. No. 12963, RPR**  
**Official Court Reporter, U.S. District Court**  
**(415) 626-6060**

Thursday, September 2, 2010

9:10 a.m.

P R O C E E D I N G S

**THE CLERK:** Calling case 10-CR-4245, United States  
versus Kenneth Martin Kyle.

Counsel, please state your appearances for the  
record.

**MR. MARTIKAN:** Good morning, Your Honor.  
Owen Martikan for the United States.

**THE COURT:** Good morning.

**MR. BIGELEISEN:** Good morning.  
David Michael Bigeleisen for Mr. Kyle. Mr. Kyle is  
present in court.

**THE COURT:** Good morning, Mr. Kyle.

**(No response.)**

**THE COURT:** I apologize to counsel and Mr. Kyle for  
being late this morning; somehow it was not on the calendar.  
So fortunately counsel showed up at the appropriate time, and  
we were able to get our collective act together. So thank you  
for that.

I've gone through your joint status conference  
statement and the proposed briefing schedule. And the -- I'm  
going to have to modify the schedule slightly to accommodate  
the Court's schedule. So all of the dates, I'm going to accept  
all the dates that counsel has proposed with one -- one  
exception only, and that is for the hearing on the discovery

1 motion, which this Court will handle on Wednesday,  
2 November 10th, at 1:00 p.m. instead of the date indicated.

3 So and then we'll have, as I see from your proposed  
4 schedule, a briefing schedule on motion to suppress would be  
5 provided upon resolution of the discovery issues. And we'll  
6 await that.

7 But, the -- I would like to set, as is proposed by  
8 the parties on page 5 of their statement, a schedule that  
9 counsel has proposed for a motion to suppress -- in, fact, I  
10 prefer doing that rather than waiting to set it. And then we  
11 could also tweak the days if discovery requires us to do so.

12 So I'm going to accept the parties' proposal with  
13 respect to the briefing schedule except that I will have the  
14 hearing on the same date and the same time as discovery, which  
15 would be November 10th at 1:00 p.m.

16 And again, if -- I would hope the parties would  
17 cooperate with respect to discovery so that motion schedule  
18 could be honored, and if not we'll have to consider adjusting  
19 the schedule.

20 So is that acceptable to the Government?

21 **MR. MARTIKAN:** It is, Your Honor.

22 **THE COURT:** To the defendant?

23 **MR. BIGELEISEN:** Yes, Your Honor.

24 **THE COURT:** All right. And I'll ask defense  
25 counsel: Is the time between now and the filing of the motions

1 properly excludable under the Speedy Trial Act?

2 **MR. BIGELEISEN:** Absolutely, Your Honor.

3 **THE COURT:** On what ground?

4 **MR. BIGELEISEN:** On the ground that it's necessary  
5 for effective preparation of counsel.

6 **THE COURT:** Okay.

7 Mr. Martikan, would you prepare a proposed  
8 stipulation and proposed order and make sure that defense  
9 counsel sees the stipulation and obviously approves of its  
10 form? And I will go ahead and make those findings.

11 **MR. MARTIKAN:** I will, Your Honor.

12 **THE COURT:** All right, anything further?

13 **MR. BIGELEISEN:** No, thank you, Your Honor.

14 **THE COURT:** Again, I apologize to counsel and  
15 Mr. Kyle.

16 (Proceedings adjourned at 9:21 a.m.)

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**CERTIFICATE OF REPORTER**

I, Sahar Bartlett, Official Court Reporter for the United States Court, Northern District of California, hereby certify that the foregoing proceedings were reported by me, a certified shorthand reporter, and were thereafter transcribed under my direction into typewriting; that the foregoing is a full, complete and true record of said proceedings as bound by me at the time of filing. The validity of the reporter's certification of said transcript may be void upon disassembly and/or removal from the court file.

**/s/ Sahar Bartlett**

**Sahar Bartlett, RPR, CSR No. 12963**

**Monday, August 27, 2012**

***Sahar Bartlett, C.S.R. No. 12963, RPR  
Official Court Reporter, U.S. District Court  
(415) 626-6060***